THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 18015 of 2005

Dated: 18th August, 2005.

Between:

1. Raj Kishan Pershad and another

(through GPA.Narayan Goud)

..... PETITIONERS

AND

1. Special Officer and Competent Authority, Urban Land

Ceiling, Hyderabad and 11 others

.....RESPONDENTS

ORDER:

This writ petition is filed seeking a declaration that the petitioners are entitled for all the benefits under G.O.Ms.Nos.455 and 456, dated 29-07-2002, issued by the Principal Secretary to Government of Andhra Pradesh, Hyderabad.

2. The case of the petitioners is that they are absolute owners of the lands to a total extent of Ac.29-04 guntas in Survey Nos.54-8, 55, 56, 57, 59, 60 and 64 of Madinaguda village, Serilingampally Mandal, Ranga Reddy District. One Narayan Pershad, grandfather of petitioners, was the pattedar of the schedule lands, who died leaving

behind him two sons and two daughters, namely, Hari Kishan Pershad, Sri Kishan Pershad, Gur Kour Biwi *alias* Champa Devi and Hari Kaur Biwi respectively. The second son Sri Kishan Pershad and the second daughter Hari Kaur Biwi, both expired issueless. Hence, the petitioners are the legal heirs and the Mandal Revenue Officer, Serilingampally Mandal, also granted Family Member Certificate to them. It is submitted that without considering the same, the first respondent-Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, by order dated 03-05-2005 in LR.No.CCH2/113/81, gave an erroneous finding that the petitioners have to obtain a Succession Certificate from the competent civil Court. The first respondent wrongly assumed that the lands in question are covered by Urban Land Ceiling Act. The finding of the first respondent that respondents 2 to 11 are the protected tenants is contrary to Sections 37, 38 and 38-E of the A.P. Tenancy and Agricultural Land Act, 1950. It is further submitted that the petitioners herein, through their General Power of Attorney Holder, filed an appeal under Section 33 of the Urban Land Ceiling and Regulation Act, 1976 on

29-06-2005 before the second respondent-Commissioner of Appeals, office of Chief Commissioner, Land Administration, Hyderabad, questioning the order dated 03-05-2005 passed by the first respondent. It is submitted that they also filed stay petition along with the appeal filed before the second respondent, but, the second respondent, without considering the stay petition, is simply adjourning the appeal and due to non-granting of stay by the second respondent, the 12th respondent, who, alleged to have been purchased the land, is going on with the construction activities. In this regard, it is submitted that if stay is not granted in their favour, the very purpose of filing the appeal before the second respondent would become infructuous. The second respondent has not passed any orders as far in the appeal filed by these petitioners. Hence this writ petition.

3. Heard the learned Counsel for the petitioners and the learned Government Pleader for Revenue appearing on behalf of respondents 1 and 2.

4. The issue involved in this writ petition is, whether the schedule lands are agricultural lands or urban lands and application of provisions of the Urban Land Ceiling Act to the suit schedule land, and also whether it is an ancestral property of the petitioners and the respondents are protected tenants. The petitioners are in possession of the suit schedule lands. If no stay is granted in favour of the petitioners pending disposal of the appeal, they will suffer irreparable loss.

5. Considering the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition at the stage of admission, with a direction to the second respondent-Commissioner of Appeals, office of Chief Commissioner, Land Administration, Hyderabad, to dispose of the appeal filed by the petitioners dated
29-06-2005 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order, after giving an opportunity to the parties concerned, in accordance with law. Till such time, the parties are directed to maintain *status quo* as on today. No order as to costs.

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ELIPE DHARMA RAO, J

18th August, 2005.

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